**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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| RISKTIMETRY   ANALYTICS,   LLC<br><br>Plaintiff,<br><br>v.<br><br>ALTAIRA, LLC, LINEDATA SERVICES INC.  and  LINEDATA  SERVICES  S.A.<br><br>Defendants. | Civil Action No. 10-cv-10969<br><br>**JURY TRIAL DEMANDED** |

**COMPLAINT**

Plaintiff, Risktimetry Analytics, LLC ("Risktimetry"), brings this action against Defendants Altaira, LLC ("Altaira"), Linedata Services Inc. ("Linedata U.S.") and Linedata Services S.A. ("Linedata France") (collectively "Linedata") (Altaira and Linedata collectively "Defendants") and asserts as follows:

**JURISDICTION AND VENUE**

1.      This is an action brought under the Federal Copyright Act, 17 U.S.C. § 101, et. seq.

2.      This Court has original and exclusive jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3.      This Court has personal jurisdiction over Altaira and Linedata because they have engaged in substantial and continuous business activities for profit within this State, and the activities complained of herein were committed in this State.

4.      Venue is proper in this district pursuant to 28 U.S.C. §§ 1400(a), 1391(b) and 1391(c) because at least Linedata has committed acts of infringement and has a regular and

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established place of business in this district, Defendants' infringing activities set forth herein have been and continue to be directed into this district and a substantial part of the events or omissions giving rise to the claim contained herein occurred in this district.

## PARTIES

5.      Risktimetry is a Delaware Limited Liability Company registered to do business in the State of Utah at 1790 Sun Peak Dr., Suite 202, Park City, Utah 84098.   Risktimetry is the owner of U.S. Copyright Registration No. TXu 1-650-521 on a body of computer software known as the Alpine System previously known as the TARgA System, and the Telemark System, which is a comprehensive cross asset class trading, pricing and risk management software system (the "Copyrighted System").   A true and correct copy of the Registration is attached as Exhibit A.   The Copyrighted System has been utilized by the financial services industry for pre-trade analysis, portfolio assessment, hedge assessments, and risk oversight that allows for effective hedging of all types and categories of structured products and derivatives, including credit, fixed income, futures/options, mortgages, foreign exchange, and equity exposures.

6.      Linedata U.S. is a Massachusetts corporation with a principal place of business at 260 Franklin Street, Suite 1300, Boston, Massachusetts 02110.   Linedata U.S. is registered to do business in Massachusetts as Linedata Services Inc.  Linedata U.S. is a wholly owned subsidiary of Linedata France.

7.      Linedata France is a French company with its global headquarters at 19 rue d' Orleans 92 523 Neuilly-sur-Seine Cedex, France.   Linedata France is the parent company of Linedata U.S.

8.      Altaira is a Utah Limited Liability Company registered to do business in the State

of Utah at 2475 Sunny Knoll Court, Park City, Utah 84060.

## THE DEVELOPMENT OF THE COPYRIGHTED SYSTEM

9.      Theoretics, Inc. was a Utah corporation which was registered to do business in the

State of Utah on January 27, 1994 and was founded by Blaise Labriola, Jared Stoddard, and

Kevin Carter, among others.   Theoretics Holdings, Inc., a successor to Theoretics, Inc., was

registered to do business in the State of Utah on or about June 1, 1999 (collectively,

"Theoretics").   From January, 1994 through April, 2005, Theoretics engaged in the business of

designing, developing and selling software and software systems, including the TARgA,

Telemark and Alpine Systems, i.e., the Copyrighted System, for use in the global financial

services industry.

10.     First, between 1994 and 1997, Theoretics developed the TARgA (Tactical Asset

Risk Analysis) System, a front office trading software package with extended middle-office

capabilities.

11.     Subsequently, Theoretics improved upon the TARgA System and developed the

Telemark System, a comprehensive cross-asset trading, pricing and risk management system.

12.     Finally, Theoretics engaged in the development of the Alpine System for the

purpose of elevating the Telemark System to a fully scalable enterprise system that would be

web-deliverable and would be both multi-processor and multi-user capable.

13.     By April 2005, the Theoretics development team had written more than one

million lines of code and invested more than twelve calendar years and more than forty-two man

years in developing the Copyrighted System.   Attached, as Exhibit B, is a true and correct copy

of "Front Office Technology – Preliminary Due Diligence Report" completed September 20,

2004 by Theoretics senior management (the "Theoretics Report") wherein Theoretics represents

that it took a combined total of forty-two man years to develop the Copyrighted System through September 2004.  (See Exhibit B, § 3, p. 8).  Further, in January 2004, Theoretics reported in a Business Plan (the "Business Plan"), which a true and correct copy is attached as Exhibit C, issued by Blaise Labriola, CEO and Board Chairman, and Craig L. Gosden, President and COO, that the Copyrighted System took "…over 40 man years of intensive, non-stop work on system architecture, design and development."  (See Exhibit C, § 1, p. 5).

## THE CORE COMPONENTS OF THE COPYRIGHTED SYSTEM

14.     The Copyrighted System has the following main software components:   (1) analytics libraries, consisting of financial models and other pricing/risk management software written primarily in C++, a software language known for efficiency and speed; (2) databases; (3) functions that allow users to trade financial instruments; and (4) the graphical user interface (the"GUI"), which allows the user to operate the software.

15.     In September 2005, a large Theoretics shareholder hired Tallan Technology, an independent technology consulting firm, to assess the Copyrighted System.  After reviewing the Copyrighted System, Tallan Technology produced a report entitled: "Theoretics Evaluation: Telemark Technical Evaluation Findings" ("the Tallan Report").  A true and correct copy of the Tallan Report is attached as Exhibit D.  In the Tallan Report, Tallan Technology, concluded that the "…Telemark [System] is packed with financial models and modeling capabilities that add tremendous value to clients who are using it."  (See Exhibit D, § 6, pg. 20).  Accordingly, Tallan Technology acknowledged that the main value of the system was its "library" component - the analytics engine of the system.

16.     Theoretics senior management similarly concluded in the Business Plan that "[t]he Theoretics analytics engine is at the core of the Alpine [S]ystem.  These engines, built

from the ground up to focus on speed and accuracy, have been tried and tested and are in use by countless industry professional[s] in the structured products trading community. Theoretics analytics are famous for maintaining ease of use from pricing simple trades right up to pricing the most complex structured products." (See Exhibit C , "Analytics Engine," p. 28).

## RISKTIMETRY ACQUIRES THE COPYRIGHTED SYSTEM

17.     In early April of 2005, due to lack of capital, Theoretics ceased to do business despite the success of the Telemark System and near completion of the Alpine System. Over a two week period, the Theoretics senior management, including Blaise Labriola, Jared Stoddard, and Kevin Carter, resigned in unison.

18.     Theoretics, on March 26, 2008, filed a petition for relief under Chapter 7 of the United States Bankruptcy Code commencing a Bankruptcy case in the United States Bankruptcy Court for the Central Division of the District Court of Utah, Bankruptcy Case No. 08-21823. In its summary of personal Property on Schedule B, Theoretics listed under "patents, copyrights, and other general intangibles" the description, "[s]oftware for the financial services industry designed to assist trading entities (banks, hedge funds) with pricing and evaluating risks associated with complex derivatives trades" (i.e., the Copyrighted System).

19.     On October 29, 2009, a Bill of Sale was executed by the Bankruptcy Trustee, through which International Cargo Loss Prevention, Inc. ("ICLP") acquired all of Theoretics' interest in the Copyrighted System.

20.     ICLP subsequently assigned the Copyrighted System to Risktimetry on December 21, 2009 ("the Assignment"). A true and correct copy of the Assignment is attached as Exhibit E.

**DEFENDANTS' INFRINGEMENT OF RISKTIMETRY'S COPYRIGHTED SYSTEM**

21.     Just two months after senior management of Theoretics resigned in unison, Mr. Labriola, the former Co-founder, CEO and Chairman of the Board of Theoretics, founded Altaira, LLC, which was registered to do business in the State of Utah on June 6, 2005.  Upon information and belief, in addition to Mr. Labriola, at least the following former officers/co-founders, of Theoretics began working for Altaira: (a) Mr. Jared E. Stoddard, Co-founder, Senior Vice President and Chief Technology Officer and Director of Theoretics; (b) Mr. Kevin Carter, Co-founder, Project Manager and Senior Engineer of Theoretics; and (c) Mr. Yang Zhonggua, Director of Qualitative Research of Theoretics.

22.     On August 2, 2007, approximately 26 months after it was founded, Altaira introduced into the market a cross asset portfolio and risk management solution referred to by Altaira as its Altaira software solution (the "Altaira System").  Altaira currently describes the Altaira System on its website as: "using tools like C# for rapid application development, Microsoft®.NET for a rich client interface, grid computing for unlimited scalability, and web services for both cross-platform interoperability and extensibility."

23.     Coincidentally, Risktimetry's Copyrighted System also: (a) has financial libraries primarily written in C++, a language syntactically similar to C#; (b) a client interface written in a Microsoft language; (c) was being improved to be multi-processor capable, which would allow for grid computing; and (d) was being developed to use web services to be web-deliverable.  See infra paragraphs 12 and 14 describing the Copyrighted System.

24.     Furthermore, on its website, Altaira describes the Altaira System as covering the following financial instruments:    Bonds: Convertibles, Corporates, Floaters, Municipals, Treasuries, Zero Coupon, etc; Caps/Floors; Credit (Credit Default Swaps); Equities; Futures;

Options: Equities, Futures, Listed, OTC, etc; Swaps: Fixed/Fixed, Fixed/Floating, Floating/Floating, Asset, BMA, CMS, CMT, Currency, etc.; Swaptions: American, Bermudan, European, Embedded Caps & Floors; Misc: Contract for Difference, Money Market, Mortgages.

25.     Notably, of the thirty financial instruments that Altaira claims that the Altaira System can price, Risktimetry's Copyrighted System contains models that can price at least 28 of these financial instruments.

26.     While Risktimetry's Copyrighted System took Theoretics over forty-two man years to develop, with former Theoretics founders/officers, Altaira somehow created, developed, tested, and released into the market the similar Altaira System in just 26 months.

27.     On July 9, 2008, Linedata announced in a press release an "exclusive strategic partnership with Altaira [ ] to incorporate its premier cross-asset risk and analytics system into the Linedata Services product suite.  Linedata Services will market the system under its own brand, Linedata Risk Analytics, as a stand-alone solution or in combination with its other solutions, particularly its Beauchamp hedge fund suite and LongView trading system."

28.     In the July 9, 2008 press release, Linedata described its Linedata Risk Analytics system as providing "valuations, analytics, and risk management across all asset classes and across all markets for hedge fund and traditional asset managers.  Linedata Risk Analytics is particularly strong in the fixed income and credit asset classes, instruments which are more difficult to measure from a valuation and risk perspective."

29.     Linedata, on its website, describes the Linedata Risk Analytics solution as "powered by Altaira" and covers substantially the same financial instruments as those covered by the Altaira System.

30.     On information and belief, the Altaira System which Altaira has entered into an

exclusive strategic partnership with Linedata to distribute, is a substantial copy and/or derivative work of the Copyrighted System, representing Theoretics intellectual property and source code, which Risktimetry now owns.

31.    On information and belief, Altaira knowingly and willfully copied and/or created a substantially similar derivative work of the Copyrighted System without Risktimetry's permission.

32.    Without Risktimetry's permission, Altaira entered into an exclusive strategic partnership with Linedata to license a copy of and/or substantially similar derivative of the Copyrighted System.

33.    Without Risktimetry's permission, Linedata created its Linedata Risk Analytics solution and embedded the Altaira System into other Linedata product suites, which is a copy of and/or a substantially similar derivative work of the Copyrighted System.

34.    Altaira infringes and continues to infringe Plaintiff's copyright in the Copyrighted System through its unauthorized copying, reproduction, distribution, license and/or sale of its Altaira System.

35.    Linedata infringes and continues to infringe Plaintiff's copyright in the Copyrighted System through its unauthorized reproduction, distribution, license and/or sale of its Linedata Risk Analytics solution, as a stand-alone solution and in combination with Linedata's other suites of service products.

## COUNT I
## DIRECT COPYRIGHT INFRINGEMENT BY ALTAIRA

36.    Risktimetry reincorporates by reference the allegations in paragraphs 1 to 35 above as though full set forth herein.

37.    This is an action by Plaintiff against Defendants for copyright infringement

pursuant to 17 U.S.C. § 101, et. seq.

38.     The effective date of Plaintiff's registration of the Copyrighted System is April 19, 2010, as reflected in the Certificate of Registration No. TXu 1-650-521.  (Exhibit A).

39.     Plaintiff is the assignee and owns all right titled interest in the Copyrighted System.  (Exhibit E).

40.     Plaintiff has retained all rights in and to the Copyrighted System, including the right to sue for copyright infringement.

41.     Defendant Altaira knowingly and willfully copied and/or created a substantially similar derivative of the Copyrighted System, in at least the form of the Altaira System, in violation of 17 U.S.C. §§ 106(1) and 106(2).

42.     Defendant Altaira reproduced and distributed copies of and/or substantially similar derivative of the Copyrighted System to the public, including Linedata U.S. and Linedata France, in violation of 17 U.S.C. § 106(1) - 106(3).

43.     Hence, Altaira has directly infringed and continues to directly infringe Plaintiff's exclusive rights in the Copyrighted System by knowingly and willfully copying and/or creating a substantially similar derivative work of the Copyrighted System and reproducing and distributing copies and/or creating a substantially similar derivative work of the Copyrighted System to the public.

## COUNT II
## DIRECT COPYRIGHT INFRINGEMENT BY LINEDATA

44.     Risktimetry reincorporates by reference the allegations in paragraphs 1 to 43 above as though full set forth herein.

45.     Defendant Linedata U.S. reproduced and distributed in the United States copies of the Copyrighted System and/or substantially similar derivative of the Copyrighted System to the public in the United States, in violation of 17 U.S.C. § 106(1) - 106(3).

46.     Defendant Linedata France reproduced in the United States copies of the Copyrighted System and/or substantially similar derivative of the Copyrighted System to the public in Europe and Asia, in violation of 17 U.S.C. § 106(1) - 106(3).

47.     Hence, Linedata U.S has directly infringed and continues to directly infringe Plaintiff's exclusive rights in the Copyrighted System by reproducing and distributing copies and/or a substantially similar derivative work of the Copyrighted System to the public.

48.     Hence, Linedata France has directly infringed and continues to directly infringe Plaintiff's exclusive rights in the Copyrighted System by reproducing and distributing in the United States copies and/or a substantially similar derivative work of the Copyrighted System to the public in Europe and Asia.

### COUNT III
### CONTRIBUTORY COPYRIGHT INFRINGEMENT BY ALTAIRA

49.     Risktimetry reincorporates by reference the allegations in paragraphs 1 to 48 above as though full set forth herein.

50.     Defendant Altaira has contributorily infringed and continues to contributorily infringe Plaintiff's exclusive rights in the Copyrighted System by, with knowledge of the infringing activity, causing, inducing, and/or materiality contributing to Linedata U.S. and Linedata France's direct infringement, of Plaintiff's exclusive rights in the Copyrighted System, as outlined in paragraphs 44 to 48, through the sale and distribution of infringing copies and/or substantially similar derivative works of the Copyrighted System to Linedata U.S. and Linedata

France.

51.     Users of the Copyrighted System directly infringe and continue to directly infringe the Copyrighted System each time a user installs an infringing copy and/or substantially similar derivative work of the Copyrighted System, on the user's computer or system.

52.     Defendant Altaira has contributorily infringed and continues to contributorily infringe Plaintiff's exclusive rights in the Copyrighted System by, with knowledge of the infringing activity, causing, inducing, and/or materiality contributing to, to users' direct infringement of Plaintiff's exclusive rights in the Copyrighted System, through the sale and distribution of infringing copies and/or substantially similar derivative works of the Copyrighted System to users.

53.     Defendant Altaira has contributorily infringed and continues to contributorily infringe Plaintiff's exclusive rights in the Copyrighted System by, with knowledge of the infringing activity, causing, inducing, and/or materiality contributing to users' direct infringement of Plaintiff's exclusive rights in the Copyrighted System.

## COUNT IV
## CONTRIBUTORY COPYRIGHT INFRINGEMENT BY LINEDATA

54.     Risktimetry reincorporates by reference the allegations in paragraphs 1 to 53 above as though full set forth herein.

55.     Users of the Copyrighted System directly infringe and continue to directly infringe the Copyrighted System each time a user installs an infringing copy and/or substantially similar derivative work of the Copyrighted System, on the user's computer or system.

56.     Defendant Linedata U.S. has contributorily infringed and continues to contributorily infringe Plaintiff's exclusive rights in the Copyrighted System by, with knowledge of the infringing activity, causing, inducing, and/or materiality contributing to users' direct

infringement of Plaintiff's exclusive rights in the Copyrighted System, through the sale and distribution of infringing copies and/or substantially similar derivative works of the Copyrighted System to users.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that judgment be entered in its favor and against Defendants Altaira, Linedata U.S. and Linedata France, and order that Defendants:

1.      be permanently enjoined from infringement of Plaintiff's copyright and contributing to the infringement of those copyrights as provided in 17 U.S.C. § 502;

2.      to account for and turn over copies by which copies of the Copyrighted System may be reproduced as provided in 17 U.S.C. § 503;

3.      to pay to Plaintiff damages as provided in 17 U.S.C. § 504 for all infringements;

4.      to pay Plaintiff's costs and attorneys fees as provided under 17 U.S.C. § 505;

5.      to provide such other remedies under the copyright laws of the United States and/or as the Court deems reasonable and just.

## JURY DEMAND

Plaintiff, Risktimetry demands a trial by jury on all issues so triable.

Dated: June 10, 2010

Respectfully submitted,

/s/ Aaron Silverstein_____
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